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Attorneys for Plaintiff
FACEBOOK, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FACEBOOK, INC., a Delaware
corporation,

Plaintiff,

v.

JEREMI FISHER; PHILIP POREMBSKI;
RYAN SHIMEALL; and JOHN DOES 1-
25, individuals; and CHOKO SYSTEMS
LLC; HARM, INC.; PP WEB SERVICES
LLC, iMEDIA ONLINE SERVICES LLC,
and JOHN DOES 26-50, corporations,

Defendants.

Case No. C-09-05842-JF

**NOTICE OF MOTION AND MOTION
FOR ADMINISTRATIVE RELIEF TO
FILE UNDER SEAL THE SECOND
DECLARATION OF JOSEPH P. CUTLER
IN SUPPORT OF PLAINTIFF'S MOTION
FOR TEMPORARY RESTRAINING
ORDER**

NOTICE OF MOTION AND MOTION FOR ADMINISTRATIVE RELIEF

TO: DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT pursuant to Local Rules 7-11 and 79-5(b), Plaintiff Facebook, Inc. ("Facebook") respectfully requests that the Court order the Clerk of the Court to file under seal the Second Declaration of Joseph P. Cutler in Support of Plaintiff's Motion for Temporary Restraining Order.

Facebook seeks this motion for administrative relief on the grounds that the above-mentioned document contains information that could place the safety of Facebook's employees and Facebook's counsel in jeopardy. The mentioned document also contains information relating to Facebook's confidential and proprietary network structure, defensive safety measures, and methods for investigating a security breach, which constitute Facebook's trade secrets and/or privileged information. Pursuant to Local Rule 79-5(b), Facebook requests that the Court order the Clerk of the Court to file the Second Declaration of Joseph P. Cutler under seal.

Dated: December 17, 2009

PERKINS COIE LLP

By: /s/ Brian Hennessy
Brian Hennessy

Attorneys for Plaintiff Facebook, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to Local Rules 7-11 and 79-5(b), Plaintiff Facebook, Inc. ("Facebook") respectfully requests that the Court order the Clerk of the Court to file under seal the Second Declaration of Joseph P. Cutler in Support of Plaintiff's Motion for Temporary Restraining Order filed on December 17, 2009.

Good cause exists to grant this motion for administrative relief on the grounds that the above-mentioned document contains information that could place Facebook's employees and Facebook's counsel in jeopardy. The mentioned document also contains information relating to Facebook's confidential and proprietary network structure, defensive safety measures, and methods for investigating a security breach, which constitute Facebook's trade secrets and/or privileged information. Pursuant to Local Rule 79-5(b), Facebook requests that the Court order the Clerk of the Court to file under seal the Second Declaration of Joseph P. Cutler under seal.

Pursuant to Local Rule 79-5, this request is supported by a declaration of Joseph P. Cutler and is accompanied by a proposed order. *See* Declaration of Joseph P. Cutler in Support of Motion for Administrative Relief for Leave to File Under Seal the Second Declaration of Joseph P. Cutler in Support of Plaintiff's Motion for Temporary Restraining Order, and the Proposed Order thereon.

II. ARGUMENT

Upon a showing of good cause, a court may make any order that justice requires to protect a party, including an order that "forbid[s] the disclosure" or "that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way." Fed. R. Civ. P. 26(c)(1)(A), (G). In particular, a court may deny access to the public where documents could "become a vehicle for improper purposes." *Hagestad v. Tragesser*, 49 F.3d 1430, 1433-34 (9th Cir. 1995).

Good cause exists to protect information that could place Facebook employees or Facebook's counsel in jeopardy. If this information is made public, it may increase the likelihood of physical or other harm. Additionally, it may be abused by malicious hackers and other copycat

1 spam-artists seeking to breach Facebook's security, or even abused by Facebook's competitors,
2 thus causing irreparable harm to Facebook and the integrity of its network.

3 **III. CONCLUSION**

4 For the reasons set forth above, good cause exists to file under seal the Second
5 Declaration of Joseph P. Cutler in Support of Plaintiff's Motion for Temporary Restraining Order.

6 Accordingly, Facebook respectfully requests that the Court grant its administrative request
7 in the form of the Proposed Order filed herewith.

8
9 Dated: December 17, 2009

PERKINS COIE LLP

10 By: /s/ Brian Hennessy
11 Brian Hennessy

12 *Attorneys for Plaintiff Facebook, Inc.*
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